

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

BROADCAST MUSIC, INC.;
FOURTEENTH HOUR MUSIC, INC.;
COTILLION MUSIC, INC. d/b/a
PRONTO MUSIC; HOUSE OF CASH, CASE NO.:
INC.; SONY/ATV SONGS LLC d/b/a
SONY/ATV ACUFF ROSE MUSIC;
COMBINE MUSIC CORP.; CHERIO Hon.
CORPORATION; RONDOR MUSIC
INTERNATIONAL, INC. d/b/a IRVING
MUSIC; WARNER-TAMERLANE
PUBLISHING CORP.; LUCY JONES
MUSIC; GOLD HILL MUSIC, INC.;
FHQ ENTERTAINMENT, INC.,

Plaintiffs,

v.

FIVE G's, INC. d/b/a O'MALLEY'S and
FRANK GRISA and JANICE GRISA,
each individually,

Defendants.

HOWARD & HOWARD ATTORNEYS PLLC
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Attorneys for Plaintiff

COMPLAINT

Plaintiffs, by their attorneys, for their Complaint against Defendants, allege as follows (on knowledge as to Plaintiffs; otherwise on information and belief):

JURISDICTION AND VENUE

1. This is a suit for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 *et seq.* (the “Copyright Act”). This Court has jurisdiction pursuant to 28 U.S.C. § 1338(a).

2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1400(a).

THE PARTIES

3. Plaintiff Broadcast Music, Inc. (“BMI”), is a corporation organized and existing under the laws of the State of Delaware. BMI’s principal place of business is 7 World Trade Center, 250 Greenwich Street, New York, New York 10007. BMI has been granted the right to license the public performance rights in approximately 18.7 million copyrighted musical compositions (the “BMI Repertoire”), including those which are alleged herein to have been infringed.

4. The Plaintiffs other than BMI are the owners of the copyrights in the musical compositions, which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Fed. R. Civ. P. 17(a) and 19(a).

5. Plaintiff Fourteenth Hour Music, Inc. is a corporation. This Plaintiff is a copyright owner of at least one of the songs in this matter.

6. Plaintiff Cotillion Music, Inc. is a corporation doing business as Pronto Music. This Plaintiff is a copyright owner of at least one of the songs in this matter.

7. Plaintiff House of Cash, Inc. is a corporation. This Plaintiff is a copyright owner of at least one of the songs in this matter.

8. Plaintiff Sony/ATV Songs LLC is a limited liability company doing business as Sony/ATV Acuff Rose Music. This Plaintiff is a copyright owner of at least one of the songs in this matter.

9. Plaintiff Combine Music, Corp. is a corporation. This Plaintiff is a copyright owner of at least one of the songs in this matter.

10. Plaintiff Cherio Corporation is a corporation. This Plaintiff is a copyright owner of at least one of the songs in this matter.

11. Plaintiff Rondor Music International, Inc. is a corporation doing business as Irving Music. This Plaintiff is a copyright owner of at least one of the songs in this matter.

12. Plaintiff Warner-Tamerlane Publishing Corp. is a corporation. This Plaintiff is a copyright owner of at least one of the songs in this matter.

13. Plaintiff Lucy Jones Music is a sole proprietorship owned by Lucinda G. Williams. This Plaintiff is a copyright owner of at least one of the songs in this matter.

14. Plaintiff Gold Hill Music, Inc. is a corporation. This Plaintiff is a copyright owner of at least one of the songs in this matter.

15. Plaintiff FHQ Entertainment, Inc. is a corporation. This Plaintiff is a copyright owner of at least one of the songs in this matter.

16. Defendant Five G's, Inc. is a corporation organized and existing under the laws of the state of Michigan, which operates, maintains and controls an establishment known as O'Malley's, located at 15231 Farmington Rd., Livonia, Michigan 48154, in this district (the "Establishment").

17. In connection with the operation of the Establishment, Defendant Five G's, Inc. publicly performs musical compositions and/or causes musical compositions to be publicly performed.

18. Defendant Five G's, Inc. has a direct financial interest in the Establishment.

19. Defendant Frank Grisa is a president, director and stockholder of Defendant Five G's, Inc. with responsibility for the operation and management of that corporation and the Establishment.

20. Defendant Frank Grisa has the right and ability to supervise the activities of Defendant Five G's, Inc. and a direct financial interest in that corporation and the Establishment.

21. Defendant Janice Grisa is a treasurer, secretary and stockholder of Defendant Five G's, Inc. with responsibility for the operation and management of that corporation and the Establishment.

22. Defendant Janice Grisa has the right and ability to supervise the activities of Defendant Five G's, Inc. and a direct financial interest in that corporation and the Establishment.

CLAIMS OF COPYRIGHT INFRINGEMENT

23. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 22.

24. Since July 2018, BMI has reached out to Defendants over one hundred (100) times, by phone, mail and email, in an effort to educate Defendants as to their obligations under the Copyright Act with respect to the necessity of purchasing a license for the public performance of musical compositions in the BMI Repertoire. Included in the letters were Cease and Desist Notices, providing Defendants with formal notice that they must immediately cease all use of BMI-licensed music in the Establishment.

25. Plaintiffs allege nine (9) claims of willful copyright infringement, based upon Defendants' unauthorized public performance of musical compositions from the BMI Repertoire. All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and involve similar facts. Joinder of

these claims will promote the convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

26. Annexed to this Complaint as a schedule (the “Schedule”) and incorporated herein is a list identifying some of the many musical compositions whose copyrights were infringed by Defendants. The Schedule contains information on the nine (9) claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information (all references to “Lines” are lines on the Schedule): Line 1 providing the claim number; Line 2 listing the title of the musical composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 identifying the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration was issued for the musical composition; Line 6 indicating the copyright registration number(s) for the musical composition; Line 7 showing the date(s) of infringement; and Line 8 identifying the Establishment where the infringement occurred.

27. For each work identified on the Schedule, the person(s) named on Line 3 was the creator of that musical composition.

28. For each work identified on the Schedule, on or about the date(s) indicated on Line 5, the publisher(s) named on Line 4 (including any predecessors in interest), complied in all respects with the requirements of the Copyright Act and

received from the Register of Copyrights Certificates of Registration bearing the number(s) listed on Line 6.

29. For each work identified on the Schedule, on the date(s) listed on Line 7, Plaintiff BMI was (and still is) the licensor of the public performance rights in the musical composition identified on Line 2. For each work identified on the Schedule, on the date(s) listed on Line 7, the Plaintiff(s) listed on Line 4 was (and still is) the owner of the copyright in the respective musical composition listed on Line 2.

30. For each work identified on the Schedule, on the date(s) listed on Line 7, Defendants publicly performed and/or caused to be publicly performed at the Establishment the musical composition identified on Line 2 without a license or permission to do so. Thus, Defendants have committed copyright infringement.

31. The specific acts of copyright infringement alleged in the Complaint, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI Repertoire at the Establishment, Defendants threaten to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that:

(I) Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. § 502;

(II) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C. § 504(c);

(III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. § 505; and

(IV) Plaintiffs have such other and further relief as is just and equitable.

HOWARD & HOWARD ATTORNEYS PLLC

Dated: May 24, 2022

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Schedule

Line 1	Claim No.	1
Line 2	Musical Composition	Chain Of Fools
Line 3	Writer(s)	Don Covay
Line 4	Publisher Plaintiff(s)	Fourteenth Hour Music Inc.; Cotillion Music, Inc. d/b/a Pronto Music
Line 5	Date(s) of Registration	3/4/68 12/31/96
Line 6	Registration No(s).	Ep 244288 RE 742-859
Line 7	Date(s) of Infringement	06/13/2019
Line 8	Place of Infringement	O'Malley's

Line 1	Claim No.	2
Line 2	Musical Composition	Folsom Prison a/k/a Folsom Prison Blues
Line 3	Writer(s)	John R. Cash a/k/a Johnny Cash
Line 4	Publisher Plaintiff(s)	House of Cash, Inc.
Line 5	Date(s) of Registration	2/13/84 1/13/83 9/14/56 11/30/55
Line 6	Registration No(s).	RE 196-295 RE 153-380 Ep 102326 EU 418371
Line 7	Date(s) of Infringement	06/13/2019
Line 8	Place of Infringement	O'Malley's

Line 1	Claim No.	3
Line 2	Musical Composition	Just Dropped In To See What Condition My Condition Was In a/k/a Just Dropped In
Line 3	Writer(s)	Mickey Newbury
Line 4	Publisher Plaintiff(s)	Sony/ATV Songs LLC d/b/a Sony/ATV Acuff Rose Music
Line 5	Date(s) of Registration	11/24/67
Line 6	Registration No(s).	Ep 238902
Line 7	Date(s) of Infringement	06/13/2019
Line 8	Place of Infringement	O'Malley's

Line 1	Claim No.	4
Line 2	Musical Composition	Rainy Night In Georgia AKA A Rainy Night In Georgia
Line 3	Writer(s)	Tony Joe White
Line 4	Publisher Plaintiff(s)	Combine Music Corp.
Line 5	Date(s) of Registration	11/5/69
Line 6	Registration No(s).	Ep 265049
Line 7	Date(s) of Infringement	06/13/2019
Line 8	Place of Infringement	O'Malley's

Line 1	Claim No.	5
Line 2	Musical Composition	Stay
Line 3	Writer(s)	Maurice Williams
Line 4	Publisher Plaintiff(s)	Cherio Corporation
Line 5	Date(s) of Registration	1/19/88 8/25/60
Line 6	Registration No(s).	RE 373-194 Eu 636938
Line 7	Date(s) of Infringement	06/13/2019
Line 8	Place of Infringement	O'Malley's

Line 1	Claim No.	6
Line 2	Musical Composition	Come to Mama a/k/a Come to Papa
Line 3	Writer(s)	Willie Mitchell; Earl Randle
Line 4	Publisher Plaintiff(s)	Rondor Music International, Inc. d/b/a Irving Music
Line 5	Date(s) of Registration	10/17/86
Line 6	Registration No(s).	PA 304-711
Line 7	Date(s) of Infringement	06/13/2019
Line 8	Place of Infringement	O'Malley's

Line 1	Claim No.	7
Line 2	Musical Composition	Joy
Line 3	Writer(s)	Lucinda Williams
Line 4	Publisher Plaintiff(s)	Warner-Tamerlane Publishing Corp., Lucinda G. Williams, an individual d/b/a Lucy Jones Music
Line 5	Date(s) of Registration	8/31/98
Line 6	Registration No(s).	PA 910-260
Line 7	Date(s) of Infringement	06/13/2019
Line 8	Place of Infringement	O'Malley's

Line 1	Claim No.	8
Line 2	Musical Composition	Carry On
Line 3	Writer(s)	Stephen Stills a/k/a Steven Sills
Line 4	Publisher Plaintiff(s)	Gold Hill Music, Inc.
Line 5	Date(s) of Registration	1/6/98 2/24/70
Line 6	Registration No(s).	RE 775-487 Eu 166067
Line 7	Date(s) of Infringement	06/13/2019
Line 8	Place of Infringement	O'Malley's

Line 1	Claim No.	9
Line 2	Musical Composition	When You Get Back
Line 3	Writer(s)	Jon Cleary
Line 4	Publisher Plaintiff(s)	FHQ Entertainment Inc.
Line 5	Date(s) of Registration	7/11/03
Line 6	Registration No(s).	PA 1-194-171
Line 7	Date(s) of Infringement	06/13/2019
Line 8	Place of Infringement	O'Malley's
